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Lieutenant Governor

# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

### Division of Oil, Gas and Mining

JOHN R. BAZA  
Division Director

July 8, 2013

CERTIFIED RETURN RECEIPT  
7010 2780 0002 7254 1200

David Penney  
Penney's Gemstones, LLC  
P.O. Box 253  
Panguitch, Utah 84759

Subject: Review of Reclamation Surety, Penney's Gemstones, LLC, Lucin Variscite Mine,  
S/003/0034, Box Elder County, Utah

Dear Mr. Penney:

The last surety estimate for the Lucin Variscite Mine was done by the BLM in 2003. The BLM calculation did not include any escalation factor, so the amount of the reclamation cost estimate, \$10,000, was for 2003. It was also based on only 2.5 acres. The surety amount needs to be adjusted to account for changes in reclamation costs and the increased acreage from 2.5 to four acres.

Based on average reclamation costs, the surety amount needs to be increased to at least \$25,000.00. The average reclamation costs are outlined below:

<b>Lucin Variscite Mine</b>			
<b>S/003/0034</b>			
<b>3-year escalation (2016)</b>			
<b>Item</b>	<b>Qty</b>	<b>Unit Cost</b>	<b>Total Cost</b>
1st Acre Disturbance	1	\$9,400.00	\$9,400.00
Add'l Acres Disturbance	3	\$5,200.00	\$15,600.00
<b>TOTAL</b>			<b>\$25,000.00</b>
Notes: The current surety amount of \$10,000 was for only 2.5 acres. The area is now permitted for 4 acres. The current surety should have been updated and escalated in 2008. The change represents a 13-year reclamation cost escalation based on average cost per acre to reclaim a typical small mine as approved by the Utah Board of Oil Gas and Mining.			

The current reclamation surety for this site is held by the BLM. You may provide the increased surety by 1) Increasing the surety the BLM holds by \$15,000 (from the current \$10,000 to a total of \$25,000), or 2) by providing a separate surety instrument for the increase.





David Penney  
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amount of \$15,000. Regardless of which agency holds the surety, both agencies need to be named as co-beneficiaries. You also need to provide a reclamation contract for this project with the Division.

Please contact Penny Berry at [pennyberry@utah.gov](mailto:pennyberry@utah.gov) or 801-538-5291 for assistance with the reclamation surety and reclamation contract requirements. While the Division is allowing approximately 60 days for the surety to be increased, **you may not do any further mining until the increased surety is submitted and the reclamation contract is signed (and notarized) and submitted to the Division.**

Please provide the additional surety no later than September 3, 2013. Failure to do so may result in enforcement action being taken.

Two other issues need to be addressed with this operation as well. First, during the Division's inspection on June 4, 2013, it was noted that there is an overhang on the highwall inside the pit. Before any mining continues, this safety issue needs to be corrected by removing the overhanging materials. Second the annual permit fee of \$150 for this year has not been paid. This needs to be submitted as soon as possible but no later than August 1, 2013.

The fee is also due for your other permitted sites: Little Spot (S/027/0024), Sliver 1-2 (S/001/0035), Pretty in Pink (S/027/0073), White Tiger (S/027/0093), Lost Gems 1 (S/001/0056), and Sliver 3-4 (S/001/0057) for a total of \$1050.00. There is to be no mining at any of these sites until the Division receives the fee.

Thank you for your help in resolving these issues. If you have any questions concerning this letter, please contact Lynn Kunzler at 801-538-5310 or me at 801-538-5261.

Sincerely,

*W. H. Walton*  
*for Paul Baker*  
Paul B. Baker  
Minerals Program Manager

PBB:lk:pb  
Attachment: 6/4/2013 inspection report  
cc: Michael Nelson, BLM ([mnelson@blm.gov](mailto:mnelson@blm.gov)) w/attachment  
David Penney ([ep7art@mac.com](mailto:ep7art@mac.com))  
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